

REMARKS

The claim amendments previously set forth in the Amendment submitted January 20, 2006 are being resubmitted. The remarks presented herewith address both the arguments previously set forth in the Office Action mailed October 20, 2005 and in the Advisory Action.

Specifically, claims 1, 2, 9, 11, 12, and 19 have been canceled. Claims 3-8, 10, 13-18, and 20 remain pending and have been amended. The amendments are believed to put the application in condition for allowance. Applicants reserve the right to pursue the original claims in this and other applications. Reconsideration and withdrawal of all outstanding rejections and objections are respectfully requested in light of the foregoing amendments and the following remarks.

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action states that the limitation “said plurality of elements each having the same shape. . . is not supported in the original specification.” Please note, however, that support for this limitation can be found, for example, in FIG. 2 of the application. FIG. 2 shows that a predetermined pattern includes three marks, and that a mask 11 includes a foreground part (mark) 11b including pixels forming each mark. FIG. 2 indicates that the respective foreground parts 11b, i.e., marks, have the same shape. In addition, from the description of the embodiment, it is clear that the marks of the pattern have the same shape.

The Advisory Action argues that Fig. 2 does not provide support for this limitation because it does not disclose “an actual scale. . . so that the Examiner can authenticate that the drawing elements hav[e] the same shape.” The Advisory Action references 37 CFR 1.84 and 37 CFR 1.165(a), but it does not appear that either of these sections supports that proposition. The Examiner’s attention is respectfully directed to MPEP 608.04 which explains that an applicant can rely on the drawings for support when making claim amendments. Moreover, it would have been obvious to one of ordinary skill

in the art, regardless of what the actual scale of Fig. 2 is, that Fig. 2 shows, respectively speaking, a “plurality of elements each having the same shape.” For at least these reasons, withdrawal of the rejection is requested.

Claims 5 and 15 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action states that the specification does not explain how “area balance” is examined, as recited by these claims. Claims 5 and 15 have been amended to obviate the rejection. Specifically, “area balance” has been removed from claims 5 and 15.

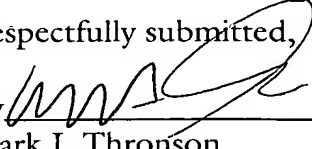
Claims 5 and 12 have been amended to recite that “step a) obtains continuity of a foreground part from the number of pixels each having a gray-scale level higher than a predetermined threshold in respective areas obtained from dividing the foreground part.” Support for the amendment can be found in the application as originally filed at, for example, p. 15, lines 3-10 and Table 2. For at least these reasons, withdrawal of the rejection is requested.

Claims 1, 2, 9, 11, 12, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,008,946 to Ando (“Ando”). The rejection is obviated in view of the amendments.

The Office Action acknowledges that claims 3-8, 10, 13-18, and 20 contain subject matter that is not found in the prior art. Office Action, at 6. Each of these claims has been rewritten in independent claim and as to obviate the outstanding rejections and objections.

Accordingly based on all of the foregoing, Applicants believe that each of the pending claims in this application is in condition for immediate allowance.

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